



TOWN OF NORTH REDINGTON BEACH

190 - 173RD AVENUE

NORTH REDINGTON BEACH, FLORIDA 33708

(813) 391-4848

MAYOR
DEE DAY

January 26, 1993

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EDWIN PECK
259 - 4TH AVENUE N.
ST. PETERSBURG, FL

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: No.: MM Docket No. 92-266, FCC 92-54

Dear Mr. Secretary:

Enclosed please find an original and nine copies of comments regarding the proposed rules by cable service providers on behalf of the Town of North Redington Beach for consideration by the FCC.

Respectfully submitted,

Edwin Peck

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COMMENT OF THE
TOWN OF NORTH REDINGTON BEACH, FLORIDA

Number: MM Docket No. 92-266, FCC 92-54

January 26, 1993

In your Notice of Proposed Rulemaking you solicited comment on whether two or more communities served by the same cable system could file a joint certification and exercise joint regulatory jurisdiction. The Board of Commissioners requested that I submit the following:

The Town of North Redington Beach is a small beach community with a population of approximately 1,200 persons and geographically located on part of one of the barrier islands just off the Pinellas Peninsula located in Pinellas County, Florida. The Town has a long history of joining together with other small municipalities located on the barrier islands to perform governmental service for more than one municipality. (see Exhibit 1).

Currently, the Town of North Redington Beach, together with three other municipalities - the City of Madeira Beach, population approximately 4,000, the Town of Redington Beach, population approximately 1,600, and

the Town of Redington Shores, population approximately 2,400 - are served by the same cable provider. Rules providing for the joint certification of the smaller communities serviced by the same cable operator would be beneficial to both the franchising authority and the cable system. It would further assist in complying with the Cable Act of 1992 that the rate structure be uniform throughout a geographical area.

The geographical location can be seen on Exhibit 2 which consists of several miles of barrier islands connected by bridge structures and serviced by a mostly 4-lane divided state highway, with the Town of Redington Shores toward the north, then moving south, the Town of North Redington Beach, the Town of Redington Beach, and the City of Madeira Beach.

Joint certification in the state of Florida does not seem to present any legal difficulties. Section 166.046(d) Fla.Stat. (1991) defines a franchising authority as it applies to cable service as "any governmental entity empowered by federal, state, or local law to grant a franchise."

The Florida Constitution of 1968, Article VIII, Section 2(b) states:

"Powers. Municipalities shall have governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. . . ."

Article VIII, Section 4 provides:

"Transfer of powers. By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors . . ."

Section 166.021 Fla.Stat. (1991) defines

"'Municipal purpose' means any activity or power which may be exercised by the state or its political subdivisions.

"(3) The . . . legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act, except:

. . .

"(c) Any subject expressly preempted to the state or county government by the constitution or by general law . . ."

Under the Florida Constitution and Florida Law, a municipality has all of the powers which may be exercised by the Florida state legislature unless it is expressly preempted by the state of Florida. These powers may be transferred under the provisions of the Florida Constitution.

The Town of North Redington Beach would propose that rules be made providing for two or more communities served by the same cable system to file a joint certification, and further, to adopt rules providing for, when authorized by law, for one municipality to file a certification on behalf of one or more other municipalities served by the same cable system, when that power has been transferred pursuant to the local state law.

Without this ability, the Town of North Redington Beach has found that it is burdensome, inconvenient, and a disservice to its residents not to join with other beach municipalities in the exercise of certain municipal functions and powers. The local beach municipalities in Pinellas County, Florida, jealously guard their independence and the benefits received by its citizens in maintaining the many small municipalities, but they have found in many areas enlarging the geographical scope and population for providing certain services by the transfer of powers, interlocal agreements, or contracting, that they also have the ability to gain the advantages enjoyed by larger municipality.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Edwin Peck', written in dark ink.

Edwin Peck
Town Attorney
Town of North Redington Beach

Exhibit 1

At the present time the Town of North Redington Beach has joined with other beach communities in Pinellas County to perform the following functions:

1. Police service is provided to the Town of North Redington Beach and the Town of Redington Beach by the Redington Beaches Police Department, a department created by the two municipalities by virtue of a transfer of power as allowed by the Florida Constitution.
2. The Town of North Redington Beach, the Town of Redington Beach, and the Town of Redington Shores receive fire services from the Redington Beaches Fire Association, a non-profit corporation, whose members consist of the participating municipalities.
3. The Town of North Redington Beach and the Town of Redington Shores jointly own the sewer system which services the two communities.
4. The Town of North Redington Beach, the Town of Redington Beach, the Town of Redington Shores, the City of Madeira Beach, and the City of Treasure Island receive library services by virtue of a jointly-owned library governed by a library board whose members are appointed by the participating municipalities.
5. The Town of North Redington Beach, the Town of Redington Beach, the Town of Redington Shores, and the Town of Indian Shores jointly sponsor and conduct an annual Christmas boat parade, whose route is formed by the inland shoreline on Boca Ciega Bay, through the jurisdictions of the participating municipalities.

Figure 2-5

